

House Engrossed Senate Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
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Second Regular Session
2010

CHAPTER 279

SENATE BILL 1287

AN ACT

AMENDING SECTIONS 35-323, 42-18051, 42-18206 AND 42-19111, ARIZONA REVISED
STATUTES; RELATING TO COUNTY TREASURERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 35-323, Arizona Revised Statutes, is amended to
3 read:

4 35-323. Investing public monies; bidding; security and other
5 requirements

6 A. The treasurer shall invest and reinvest public monies in securities
7 and deposits with a maximum maturity of five years. All public monies shall
8 be invested in eligible investments. Eligible investments are:

9 1. Certificates of deposit in eligible depositories.

10 2. Certificates of deposit in one or more federally insured banks or
11 savings and loan associations in accordance with the procedures prescribed in
12 section 35-323.01.

13 3. Interest bearing savings accounts in banks and savings and loan
14 institutions doing business in this state whose accounts are insured by
15 federal deposit insurance for their industry, but only if deposits in excess
16 of the insured amount are secured by the eligible depository to the same
17 extent and in the same manner as required under this article.

18 4. Repurchase agreements with a maximum maturity of one hundred eighty
19 days.

20 5. The pooled investment funds established by the state treasurer
21 pursuant to section 35-326.

22 6. Obligations issued or guaranteed by the United States or any of the
23 senior debt of its agencies, sponsored agencies, corporations, sponsored
24 corporations or instrumentalities.

25 7. Bonds or other evidences of indebtedness of this state or any of
26 its counties, incorporated cities or towns or school districts.

27 8. Bonds, notes or evidences of indebtedness of any county, municipal
28 district, municipal utility or special taxing district ~~within this~~ OF ANY
29 state that are payable from revenues, earnings or a special tax specifically
30 pledged for the payment of the principal and interest on the obligations, and
31 for the payment of which a lawful sinking fund or reserve fund has been
32 established and is being maintained, but only if no default in payment on
33 principal or interest on the obligations to be purchased has occurred within
34 five years of the date of investment, or, if such obligations were issued
35 less than five years before the date of investment, no default in payment of
36 principal or interest has occurred on the obligations to be purchased nor any
37 other obligations of the issuer within five years of the investment.

38 9. Bonds, notes or evidences of indebtedness issued by any county
39 improvement district or municipal improvement district ~~in this~~ OF ANY state
40 to finance local improvements authorized by law, if the principal and
41 interest of the obligations are payable from assessments on real property
42 within the improvement district. An investment shall not be made if:

43 (a) The face value of all such obligations, and similar obligations
44 outstanding, exceeds fifty per cent of the market value of the real property,
45 and if improvements on which the bonds or the assessments for the payment of

1 principal and interest on the bonds are liens inferior only to the liens for
2 general ad valorem taxes.

3 (b) A default in payment of principal or interest on the obligations
4 to be purchased has occurred within five years of the date of investment, or,
5 if the obligations were issued less than five years before the date of
6 investment, a default in the payment of principal or interest has occurred on
7 the obligations to be purchased or on any other obligation of the issuer
8 within five years of the investment.

9 10. Commercial paper of prime quality that is rated ~~"P1" by Moody's~~
10 ~~investors service or rated "A1" or better by Standard and Poor's~~ WITHIN THE
11 TOP TWO RATINGS BY A NATIONALLY-RECOGNIZED rating service AGENCY or ~~their~~ ITS
12 successors. All commercial paper must be issued by corporations organized
13 and doing business in the United States.

14 11. Bonds, debentures and notes that are issued by corporations
15 organized and doing business in the United States and that are rated ~~"A" or~~
16 ~~better by Moody's investor service or Standard and Poor's~~ WITHIN THE TOP
17 THREE RATINGS BY A NATIONALLY-RECOGNIZED rating service AGENCY or ~~their~~ ITS
18 successors.

19 12. NEGOTIABLE OR BROKERED CERTIFICATES OF DEPOSIT ISSUED BY A
20 NATIONALLY OR STATE CHARTERED BANK OR SAVINGS AND LOAN ASSOCIATION.

21 B. Certificates of deposit shall be purchased from the eligible
22 depository bidding the highest permissible rate of interest. No monies over
23 one hundred thousand dollars may be awarded at any interest rate less than
24 one hundred three per cent of the equivalent bond yield of the offer side of
25 United States treasury bills having a similar term. If the eligible
26 depository offering to pay the highest rate of interest has bid only for a
27 portion of the monies to be awarded, the remainder of the monies shall be
28 awarded to eligible depositories bidding the next highest rates of interest.

29 C. An eligible depository is not eligible to receive total aggregate
30 deposits from this state and all its subdivisions in an amount exceeding
31 twice its capital structure as outlined in the last call of condition of the
32 superintendent of financial institutions.

33 D. If two or more eligible depositories submit bids of an identical
34 rate of interest for all or any portion of the monies to be deposited, the
35 award of the deposit of the monies shall be made to the eligible depository
36 among those submitting identical bids having, at the time of the bid opening,
37 the lowest ratio of total public deposits in relation to its capital
38 structure.

39 E. Each bid submitted, and not withdrawn prior to the time specified,
40 constitutes an irrevocable offer to pay interest as specified in the bid on
41 the deposit, or portion bid for, and the award of a deposit in accordance
42 with this section obligates the depository to accept the deposit and pay
43 interest as specified in the bid pursuant to which the deposit is awarded.

1 F. The treasurer shall maintain a record of all bids received and
2 shall make available to the board of deposit at its next regularly scheduled
3 meeting a correct list showing the bidders, the bids received and the amount
4 awarded. These records shall be available to the public and shall be kept in
5 the possession of the treasurer for not less than two years from the date of
6 the report.

7 G. Any eligible depository, before receiving a deposit in excess of
8 the insured amount under this article, shall deliver collateral for the
9 purposes of this subsection equal to at least one hundred one per cent of the
10 deposit. The collateral shall be any of the following:

11 1. A bond executed by a surety company that is approved by the
12 treasury department of the United States and authorized to do business in
13 this state. The bond shall be approved as to form by the legal advisor of
14 the treasurer.

15 2. Securities or instruments of the following character:

16 (a) United States government or agency obligations.

17 (b) State, county, school district and other district municipal bonds.

18 (c) Registered warrants of this state, a county or other political
19 subdivisions of this state, when offered as security for monies of the state,
20 county or political subdivision by which they are issued.

21 (d) First mortgages and trust deeds on improved, unencumbered real
22 estate located in this state. No single first mortgages or trust deeds may
23 represent more than ten per cent of the total collateral. The treasurer may
24 require that the first mortgages or trust deeds comprising the total
25 collateral security be twice the amount the eligible depository receives on
26 deposit. First mortgages or trust deeds qualify as collateral subject to the
27 following limitations:

28 (i) The promissory note or other evidences of indebtedness secured by
29 such first mortgage or trust deed shall have been in existence for at least
30 three years and shall not have been in default during this period.

31 (ii) An eligible depository shall at its own expense execute, deposit
32 with the treasurer and record with the appropriate county recorder a complete
33 sale and assignment with recourse in a form approved by the attorney general,
34 together with an unconditional assumption of obligation to promptly pay to
35 the entitled parties public monies in its custody upon lawful demand and
36 tender of resale and assignment.

37 Eligible depositories may deposit the security described in this subdivision
38 with the state treasurer, and county, city or town treasurers may accept the
39 security described in this subdivision at their option.

40 3. The safekeeping receipt of a federal reserve bank or any bank
41 located in a reserve city, or any bank authorized to do business in this
42 state, whose combined capital, surplus and outstanding capital notes and
43 debentures on the date of the safekeeping receipt are ten million dollars or
44 more, evidencing the deposit therein of any securities or instruments
45 described in this section. A safekeeping receipt shall not qualify as

1 security, if issued by a bank to secure its own public deposits, unless
2 issued directly through its trust department. The safekeeping receipt shall
3 show upon its face that it is issued for the account of the treasurer and
4 shall be delivered to the treasurer. The safekeeping receipt may provide for
5 the substitution of securities or instruments which qualify under this
6 section with the affirmative act of the treasurer.

7 H. The securities, instruments or safekeeping receipt for the
8 securities, instruments or warrants shall be accepted at market value if not
9 above par, and, if at any time their market value becomes less than the
10 deposit liability to that treasurer, additional securities or instruments
11 required to guarantee deposits shall be deposited immediately with the
12 treasurer who made the deposit and deposited by the eligible depository in
13 which the deposit was made.

14 I. The condition of the surety bond, or the deposit of securities,
15 instruments or a safekeeping receipt, must be such that the eligible
16 depository will promptly pay to the parties entitled public monies in its
17 custody, upon lawful demand, and will, when required by law, pay the monies
18 to the treasurer making the deposit.

19 J. Notwithstanding the requirements of this section, any institution
20 qualifying as an eligible depository may accept deposits of public monies to
21 the total then authorized insurance of accounts, insured by federal deposit
22 insurance, without depositing a surety bond or securities in lieu of the
23 surety bond.

24 K. An eligible depository shall report monthly to the treasurer the
25 total deposits of that treasurer and the par value and the market value of
26 any pledged collateral securing those deposits.

27 L. When a security or instrument pledged as collateral matures or is
28 called for redemption, the cash received for the security or instrument shall
29 be held in place of the security until the depository has obtained a written
30 release or provided substitute securities or instruments.

31 M. The surety bond, securities, instruments or safekeeping receipt of
32 an eligible depository shall be deposited with the treasurer making the
33 deposit, and ~~he~~ THE TREASURER shall be the custodian of the bond, securities,
34 instruments or safekeeping receipt. The treasurer may then deposit with the
35 depository public monies then in ~~his~~ THE TREASURER'S possession in accordance
36 with this article, but not in an amount in excess of the surety bond,
37 securities, instruments or safekeeping receipt deposited, except for federal
38 deposit insurance.

39 N. The following restrictions on investments are applicable:

40 1. An investment of public operating fund monies shall not be invested
41 for a ~~duration~~ MATURITY of longer than ~~three~~ FIVE years.

42 2. The board of deposit may order the treasurer to sell any of the
43 securities, and any order shall specifically describe the securities and fix
44 the date upon which they are to be sold. Securities so ordered to be sold
45 shall be sold for cash by the treasurer on the date fixed in the order, at

1 the then current market price. The treasurer and the members of the board
2 are not accountable for any loss occasioned by sales of securities at prices
3 lower than their cost. Any loss or expense shall be charged against earnings
4 received from investment of public funds.

5 0. If the total amount of subdivision monies available for deposit at
6 any time is less than one hundred thousand dollars, the subdivision board of
7 deposit shall award the deposit of the funds to an eligible depository in
8 accordance with an ordinance or resolution of the governing body of the
9 subdivision.

10 Sec. 2. Section 42-18051, Arizona Revised Statutes, is amended to
11 read:

12 42-18051. Notice of tax; payment by electronic funds transfer

13 A. Immediately on receiving the tax roll from the county board of
14 supervisors, the county treasurer shall publish an official notice stating:

15 1. That the assessment and tax roll is now in the treasurer's
16 possession for collecting the taxes levied.

17 2. That the taxes on real property and personal property are due and
18 payable and become delinquent at the dates and times prescribed by section
19 42-18052, and interest will be added to the tax from the time of the
20 delinquency as prescribed by section 42-18053, unless either:

21 (a) The first half of the taxes are paid before they are delinquent.

22 (b) The full year tax is paid on or before December 31, as provided by
23 section 42-18053.

24 3. That all taxes may be paid at the time the first installment is due
25 and payable.

26 4. When and where tax payments may be made.

27 B. The county treasurer shall publish the notice once a week for four
28 consecutive weeks in a newspaper of general circulation in the county.

29 C. No other demand for taxes is necessary.

30 D. Each person who is subject to taxation shall pay the taxes at the
31 county treasurer's office, or at any other location designated by the
32 treasurer, before they become delinquent.

33 E. The county treasurer may require electronic transmission of
34 supporting documentation and payment that includes the name of the taxpayer,
35 tax parcel number and amount of tax, on or before the dates prescribed by
36 section 42-18052, by any person or entity, acting on behalf of multiple
37 owners of property who submit tax payments to the county treasurer in a lump
38 sum exceeding fifty thousand dollars or owners who submit ~~one hundred~~ FIFTY
39 or more ~~personal property~~ tax payments. If the sum of funds submitted fails
40 to balance with the tax parcel information and supporting documentation
41 submitted electronically, and there have been no changes to the tax bills as
42 a result of assessor resolutions or tax court judgments, the funds shall not
43 be accepted and the treasurer shall return the funds and request that the
44 correct amount be submitted. If any payment is received after a delinquent

1 date as prescribed in section 42-18052, interest accrues as prescribed by
2 section 42-18053.

3 Sec. 3. Section 42-18206, Arizona Revised Statutes, is amended to
4 read:

5 42-18206. Redemption during pendency of action to foreclose

6 Any person who is entitled to redeem under article 4 of this chapter
7 may redeem at any time before judgment is entered, notwithstanding that an
8 action TO FORECLOSE has been commenced, but if the person who redeems has
9 been served personally or by publication in the action, OR IF THE PERSON
10 BECAME AN OWNER AFTER THE ACTION BEGAN AND REDEEMS AFTER A NOTICE IS RECORDED
11 PURSUANT TO SECTION 12-1191, judgment shall be entered in favor of the
12 plaintiff against the person for the costs incurred by the plaintiff,
13 including a reasonable attorney fee FEES to be determined by the court.

14 Sec. 4. Section 42-19111, Arizona Revised Statutes, is amended to
15 read:

16 42-19111. Notice of sale

17 A. After seizing the property the sheriff shall give notice of the
18 time, place and terms of sale by:

19 1. Posting three notices in the county where the property is to be
20 sold. One of the notices shall be posted at the place where the property is
21 located, and the other two shall be posted in locations in the county that
22 are commonly and regularly observed by the general public.

23 2. Either personal service on the owner of the property or mailing a
24 copy of the notice to the owner by certified mail, return receipt requested.
25 IF NOTIFICATION UNDER THIS PARAGRAPH CANNOT BE COMPLETED BECAUSE THE OWNER IS
26 UNKNOWN OR THE OWNER'S ADDRESS IS UNKNOWN, THE SHERIFF SHALL PUBLISH NOTICE
27 IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE UNSECURED
28 PROPERTY WAS SEIZED. IF THE NOTICE IS PUBLISHED IN A WEEKLY NEWSPAPER, THE
29 NOTICE MUST APPEAR ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS. IF THE NOTICE
30 IS PUBLISHED IN A DAILY NEWSPAPER, THE NOTICE MUST APPEAR SIX CONSECUTIVE
31 TIMES. IN EITHER CASE, THE LAST PUBLICATION MUST APPEAR AT LEAST THREE WEEKS
32 BUT NOT MORE THAN FOUR WEEKS BEFORE THE DATE OF THE SALE.

33 B. The notices shall:

34 1. Describe the property to be sold.

35 2. State the name of the owner or person to whom the property is
36 assessed.

37 3. State the place and time of holding the sale.

38 4. State the amount of taxes for which the property is to be sold.

39 C. The sheriff may not sell personal property under section 42-19113
40 until at least three weeks after the notice is served on the property owner,
41 or after receiving confirmation that the owner received the notice by
42 certified mail OR AFTER THE LAST DATE OF NOTICE BY PUBLICATION, whichever
43 method the sheriff used under subsection A, paragraph 2 of this section.

- 1 D. If a court determines that a sheriff failed to give notice as
- 2 required by this section:
- 3 1. Any sale of the personal property by the sheriff is void.
- 4 2. The owner is entitled to redeem the property as provided by this
- 5 article on paying the outstanding taxes, interest and costs associated with
- 6 collecting the taxes.
- 7 3. The court may award fees and other expenses associated with the
- 8 adjudication to the owner as provided by section 12-348.

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.